

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

CITY OF LINCOLN,

Defendant.

**4:20CV3118**

**MEMORANDUM AND ORDER**

This matter is before the court on what has been docketed as Plaintiff's Notice of Appeal and Motion for Leave to Proceed in Forma Pauperis on Appeal. (Filing 160.) Plaintiff appeals from the court's March 8, 2021 Memorandum and Order (filing 68) in which the court determined Plaintiff's Amended Complaint (filing 45) failed to state a claim upon which relief may be granted and gave Plaintiff leave to file a second amended complaint. The judgment dismissing this case without prejudice (filing 113) was entered on May 24, 2021.

As stated in the Prison Litigation Reform Act ("PLRA"), a prisoner cannot

bring a civil action or appeal a judgment in a civil action or proceeding [IFP] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. §1915(g).

This court has determined that three or more federal court cases, including the present one, brought by Plaintiff, while a prisoner, were dismissed as frivolous or

for failure to state a claim. *Lightfeather v. Prey et al*, No. 8:21-cv-00211-RGK-PRSE (D. Neb.) (Filing Nos. 15 & 16, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on April 8, 2022, after Plaintiff failed to amend complaint); *Lightfeather v. Green et al*, No. 8:21-cv-00208-RGK-PRSE (D. Neb.) (Filing Nos. 12 & 14, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 12, 2021, after Plaintiff failed to amend complaint); *Lightfeather v. Ricketts et al*, No. 8:21-cv-00165-RGK-PRSE (D. Neb.) (Filing Nos. 12 & 14, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 7, 2021, after Plaintiff failed to amend complaint); *Lightfeather v. City of Lincoln*, No. 4:20-cv-03118-RGK-PRSE (D. Neb.) (Filing Nos. 112 & 113, May 24, 2021 Memorandum and Order and Judgment dismissing Plaintiff's second amended complaint for failure to state a claim and for being frivolous); *Lightfeather v. Beatrice Sun Times, et al*, No. 8:21-cv-00114-RGK-PRSE (D. Neb.) (Filing Nos. 14 & 15, May 19, 2021 Memorandum and Order and Judgment dismissing Plaintiff's complaint as frivolous).

Plaintiff has failed to show that any of these cases were not dismissed as frivolous or for failure to state a claim, nor has he shown that he faces an imminent danger of serious physical injury. (See Filing 22, Case No. 8:21CV211.) Accordingly,

IT IS THEREFORE ORDERED that: Plaintiff's Motion for Leave to Proceed in Forma Pauperis on Appeal (filing 160) is denied.

Dated this 15th day of August, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge